

KELLEHERS AUSTRALIA

¹ YAGAI (Surprise and Sorrow) – NAMING PLACE

Yagai – what a great word? Once widely used by the Wurundjeri, it is an exclamation of surprise – and sorrow. Is it still used?

Wurundjeri names surrounded many people in lockdown. Whilst names often reflect white dignitaries, the local names are also there too.

Since Elizabethan times, surveyors used local guides and were directed, wherever possible, to show local names on their maps². Early instructions to Australian surveyors, from the Surveyor-General, required the use of:

*'the native names of as many places as you can in your map'*³.

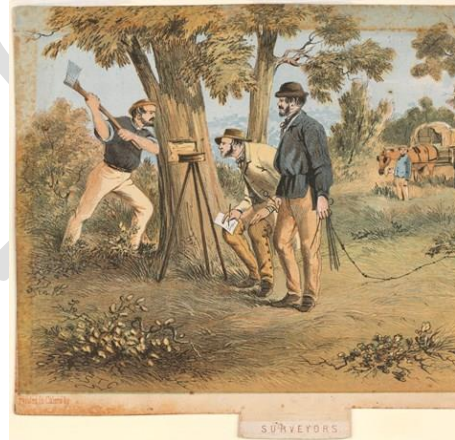
Early colonial surveyor and explorer, Major Thomas Mitchell, reiterated the benefits of using local names in his own expedition surveys:

*'The great convenience of native names is obvious ... future travelers may verify my map. Whereas new names are of no use in this respect'*⁴

Formalities

The *Geographic Place Names Act 1998*⁵ makes 'provision for the naming of places and the registration of place names'⁶. It provides for formal processes of registration and place naming throughout Victoria.

There are *Naming rules for places in Victoria, Statutory Requirements for Naming Roads, Features and Localities, 2016*.⁷ They assist surveyors, developers and community in orderly naming. The Naming rules confirm that:



S T Gill, *The Surveyors, The Australian Sketch-Book*, Melbourne, Landowne, 1974, (first published, Melbourne(?), Hamel & Ferguson, 1864, <http://www.cv.vic.gov.au/stories/land-and-ecology/mapping-great-change/the-surveyors/>

¹ Hercus, L.A., 1986, *Victorian Languages: A Late Survey*, Pacific Linguistics Series B – No. 77, Pacific Linguists, Department of Linguistics, Research School of Pacific Studies, The Australian National University, 236.

² Crone, G. R. 1966, *Maps and their Makers: An Introduction to The History of Cartography*, Hutchinson University Library, London, 108-9, 192.

³ Flannery, Tim, 1998, *The Explorers*, Text Publishing, Melbourne.

⁴ Mitchell, T., 1838, *Three Expeditions into the Interior of Eastern Australia, with descriptions of the recently explored region of Australia Felix, and the present colony of New South Wales*, Volumes 1 & 2, T & W Boone, London, page 74, referred to in Birch, T., 2003, Nothing has changed the making and unmaking of Koori culture, in Grossman, M. (ed.), *Blacklines: Contemporary Critical Writing by Indigenous Australians*, Melbourne University Press, Carlton, 145-159.

⁵ http://classic.austlii.edu.au/au/legis/vic/consol_act/gpna1998179/ accessed 09112020.

⁶ S1.

⁷ Land Use Victoria, 2016, *Naming rules for places in Victoria, Statutory Requirements for Naming Roads, Features and Localities*, The State of Victoria Department of Environment, Land, Water and Planning.

Copyright © Kellehers Australia Pty Ltd 2020

This fact sheet is intended only to provide a summary and general overview on matters of interest. It does not constitute legal advice. You should always seek legal and other professional advice which takes account of your individual circumstances.

KELLEHERS AUSTRALIA PTY LTD: www.kellehers.com.au / e: kellelegal@kellehers.com.au

497 Swan Street, Burnley, 3121, Victoria, Australia

KELLEHERS

AUSTRALIA

*'Victoria has a rich Aboriginal history, with 38 Aboriginal languages representing the diversity of Aboriginal cultural heritage and connection to Country. The uniqueness of language is based on location; each language is deeply rooted to the land and offers an ideal opportunity to connect a name to a place. To ensure the preservation of Aboriginal place names and languages across Victoria, we strongly encourage naming authorities to engage with Traditional Owners when assigning Aboriginal names to roads, features and localities.'*⁸

The Rules record that:

*'the Aboriginal community in Victoria includes the descendants of Victoria's various Traditional Owner groups, who, at the time of colonisation in 1835, maintained complex societies with languages, laws and customs, and a connection to their land. Traditional Owners today continue to assert their identity and connection to their Country and are a key stakeholder in the naming process. The use of Aboriginal languages to name roads, features and localities has played, and continues to play, a significant role in promoting Traditional Owners' relationships with Victorian landscapes.'*⁹

Names in Yarra

The City of Yarra has a Place Naming Policy¹⁰, The Policy records place names as an important part of Yarra's cultural, historical and geographic environment.

The Policy notes, obviously, that Places now within the City of Yarra originally had Wurundjeri names.

*'Perhaps the most significant of these was Birrarung, a place we know today as the Yarra River and from which Council gets its name. It is important that traditional place names and their meanings are preserved for posterity as part of the public domain we all share.'*¹¹

The Policy states that Council *'is committed to recognizing the past and ongoing custodianship of land in the municipality by the Wurundjeri people.'*¹² Its policy *'gives primacy to the recognition of places through the use of names in the Woi wurrung language.'* Woi wurrung is the language of the Wurundjeri.

Council's process involves the Wurundjeri Registered Aboriginal Party¹³, that has veto power on any request to use an Aboriginal name. After Council receives a naming request, an officer determines

⁸ Land Use Victoria, op. cit., Preface.

⁹ Land Use Victoria, op. cit., Pt 1.5.1.

¹⁰ City of Yarra, 2019, *Place Naming Policy*, City of Yarra.

¹¹ City of Yarra, op. cit., 2.

¹² City of Yarra, op. cit., 2.

¹³ The Registered Aboriginal Party is established under the Aboriginal Heritage Act 2006,

<https://www.aboriginalheritagecouncil.vic.gov.au/wurundjeri-land-and-compensation-cultural-heritage-council-aboriginal-corporation> accessed 09/11/2020.

KELLEHERS

AUSTRALIA

whether the place meets its criteria. The officer then contacts the Wurundjeri to see if they can suggest a suitable Woi wurrung name. Only then does community consultation begin.

The City of Yarra recently named some 18 places, of which six were Woi wurrung names. Near Kellehers' office in Burnley were two lanes - *Wadambuk* (renew) Lane and *Ngawe* (rest) Lane. How lovely to live in a restful, renewed place. And in North Fitzroy there was *Barruth* (marsupial mouse) Lane – hope they don't have too many mice. And, in Richmond *Kurnagar* (top of a hill) Lane – on Richmond Hill, of course¹⁴.

The Wandin Family



13. Jemima Wandin nee Burns, mother of the Wandin family (b. 1854/7, d. 1943).

Jemima Wandin, nee Burns, mother of the Wandin family (b1854/7, d 1943)¹⁶

Between 1962 and 1965, linguist Dr Luise Hercus surveyed the Woi wurrung language, as part of her survey of Victorian languages. A student of Sanskrit, she came to Australia with her husband and was alarmed at the neglect of Aboriginal languages. With her young son and husband, she would go out with their tent and approach Aboriginal communities throughout Victoria, who often at that time were living as fringe dwellers and in deep poverty. As she deepened her knowledge of Indigenous languages, she extended her work into outback South Australia, Queensland and New South Wales. Many Aboriginal Elders travelled great distances to attend her funeral in Canberra in 2018. They spoke, with great emotion, of their gratitude to her for listening to the language of their Elders and the foundational role of her work in Indigenous language revival programs.

The Wandin family, the descendants of the great Elder William Barak, passed on their language knowledge to Luise. Very elderly grand-nieces and a grand-nephew of *Berag* (Barak) told her the words. Barak was the son of Billibellary, and attended the Batman Treaty signing with his father.

When Hercus later wrote the book of her survey, she said:

*'The language was still kept intact at Healesville at the beginning of this (20th) century at the Corandrerrk reserve, ... but the last fluent speakers died soon after that. ...'*¹⁵



14. Mr Frank Wandin (Wolwura).

Mr Frank Wandin¹⁷

¹⁴ City of Yarra, 2020, *Place Naming*, <https://www.yarracity.vic.gov.au/about-us/governance/place-naming> accessed 01112020.

¹⁵ Hercus, L.A., 1986. *Victorian Languages: A Late Survey*, Pacific Linguistics, Series B – No 77, A.N.U. Printing Service, 160.

KELLEHERS

AUSTRALIA

The Wandins entrusted photographs to Luise, that she included in her book. We see Jemima Wandin, nee Burns, mother of the Wandin family (b1854/7, d 1943)¹⁶, Mr Frank Wandin¹⁷ and Wandin family members (Mary Smith Wandin (little Don), Ellen Wandin, Martha Nevin, Joe Letapi Wandin and an unknown man¹⁸).



16 - The Wandin family - J - Mary Smith Wandin (little Don, because born on the Don River); Ellen Wandin;

Wandin family members (Mary Smith Wandin (little Don), Ellen Wandin, Martha Nevin, Joe Letapi Wandin and an unknown man¹⁸

They told Luise their family words:

babeb (mother), *mamem* (father), *wadj* (child), *lerub* (boyfriend), *nangrun* (lover) and *djambi* (brother-in-law).

They spoke of *yulendj* (sense/intelligence) and *budedn* (matter) - and *naie* (yes)!

The body – *minug* (eye), *djinan* (foot), *garan* (nose) and *wimbel* (ears).

They told her the names for our local animals – *yeranin* (tame dog), *wirengel* (wild dog) *waled* (silver grey possum) as well as *warendj* (wombat), *gunme* (snake) and *nared* (frog).¹⁹



¹⁶ Hercus, op.cit., xxix.

¹⁷ Hercus, op.cit. xxvii.

¹⁸ Hercus, op. cit. xxviii.i

¹⁹ Hercus, op.cit. 234-236.

KELLEHERS

AUSTRALIA

For those in Melbourne's long lockdown, who finally noticed our backyard birds, the Wurundjeri have their words – *waa* (the raven), *djiri-djiri* (willie wagtail) and *balam-balam* (the white butterfly). Further afield, *bulen-bulen* (lyrebird) and *djinid-djinid* (tawny frogmouth).²⁰



The Wandins told Luise the words common to us all – *yago* (yawn), *gurba* (meat), *nurun* (bread), *yalgi* (tea) and *gargrid* (sugar).²¹

Dr Hercus recognized the uniqueness of the Woi wurrung language. She extensively studied Aboriginal languages throughout Australia. According to her, anyone familiar with the Indigenous languages of New South Wales or South Australia, who is then confronted with a Victorian language, feels as if they are 'transported to a foreign country'²².

Wurundjeri Language - Alive and Well

Fortunately, due to the long oral cultural heritage and the century of intense commitment by the Wandin family, the language is not extinct. The oral intangible heritage of the Wurundjeri People still hold this ancient complex and highly significant language.

Barak's descendent and Wandin family member, Auntie Joy Murphy's childrens' books²³, gently teach the language. It is as if it weren't a lesson - just a story. Magic! Most non-Indigenous People are children, when they begin to learn their local language.

Auntie Joy's most recent book, *Wilam: A Birrarung Story*²⁴, embraces the story of *wilam* (home) along *Birrarung* (Yarra River). Under *ngua* (sun), *parnmin* (rain) falls on *yeameneen beek* (earth). Deep in *yerin* (the bush), *wallert* (possum) comes home. The river's source is born and flows to meet the *Mirring-gnay-bir-nong*²⁵ (Maribyrnong) River.

Despite use of Wurundjeri language in the Yarra River Protection (Wilip-Gin Birrarung Murrnong) Act 2017²⁶, the great Wurundjeri culture is often given mere lip-service. It is the oral history of our Country that must be known and engaged with by the development industry and not just archaeological digs for bones and stones (although these are obviously also important to a respectful approach to Indigenous cultural heritage).

²⁰ Hercus, op.cit. 234-236.

²¹ Hercus, op.cit. 234-236.

²² Hercus 1

²³ Murphy, Joy and Andrew Kelly, 2019, *Wilam: A Birrarung Story*, Black Dog Books an imprint of Walker Boos Australia Pty Ltd, New Town NSW, Australia and Murphy, Auntie Joy and Lisa Kennedy, 2016, *Welcome to country*, Black Dog Books an imprint of Walker Boos Australia Pty Ltd, New Town NSW, Australia

²⁴ Op.cit.

²⁵ *Mirring-gnay-bir-nong* mean 'I can hear a ring-tailed possum'. Maribyrnong is its anglicized version.,

<https://www.maribyrnong.vic.gov.au/Discover-Maribyrnong/Our-history-and-heritage/Aboriginal-Maribyrnong> accessed 06112020.

²⁶ http://classic.austlii.edu.au/au/legis/vic/consol_act/yrpbma2017554/s1.html accessed 03062020.

KELLEHERS AUSTRALIA

The 'main purposes' of the *Aboriginal Heritage Act 2006*²⁷ (AHA) now include protection²⁸ of 'Aboriginal intangible heritage'.

'Aboriginal intangible heritage' is defined to:

*'mean any knowledge of or expression of Aboriginal tradition, other than Aboriginal cultural heritage, and includes oral traditions, performing arts, stories, rituals, festivals, social practices, craft, visual arts, and environmental and ecological knowledge, but does not include anything that is widely known to the public' and also includes 'any intellectual creation or innovation based on or derived from anything' so referred to.*²⁹

However, protection of 'Aboriginal intangible heritage' requires its prior registration via a system detailed in Part 5A AHA.

'Aboriginal cultural heritage' 'means Aboriginal places, Aboriginal objects and Aboriginal ancestral remains'³⁰. 'Cultural heritage significance' includes—

- (a) archaeological, anthropological, contemporary, historical, scientific, social or spiritual significance; and
- (b) significance in accordance with Aboriginal tradition³¹.

AHA requires preparation of a cultural heritage management plan (CHMP) for certain 'activities'³².

In practice, an 'expert' (usually non-Indigenous) prepares a CHMP. This consultant's preliminary study generally considers whether there is a likelihood of finding 'Aboriginal cultural heritage' (as defined) – and, from there, whether the developer/owner/advisor needs to explore further. If there is likelihood of

²⁷ http://classic.austlii.edu.au/au/legis/vic/consol_act/yrbma2017554/, accessed 18092020.

²⁸ S4(1) AHA

(a) to provide for the protection of [Aboriginal cultural heritage](#) and Aboriginal intangible heritage in Victoria; and
(b) to empower traditional owners as protectors of their cultural heritage on behalf of Aboriginal people and all other peoples; and
(c) to strengthen the ongoing right to maintain the distinctive spiritual, cultural, material and economic relationship of traditional owners with the land and waters and other resources with which they have a connection under traditional laws and customs; and
(d) to promote respect for [Aboriginal cultural heritage](#), contributing to its protection as part of the common heritage of all peoples and to the sustainable [development](#) and management of land and of the environment

²⁹ S79B AHA.

³⁰ S4(1) AHA.

³¹ S4(1) AHA.

³² S46 AHA. 'Activity' means the 'development or use of land', with 'development' defined to include:

- (a) the construction or exterior alteration or exterior decoration of a building;
- (b) the demolition or removal of a building or works;
- (c) the construction or carrying out of works;
- (d) the subdivision or consolidation of land, including buildings and airspace;
- (e) the placing or relocation of a building or works on land;
- (f) the construction or putting up for display of signs or hoardings'

'Works' is defined to 'include:

- (a) any physical intervention, excavation or action that may result in a change to the structure, appearance or physical nature of a place;
- and
- (b) any change to the natural or existing condition or topography of land; and
 - (c) the removal or destruction of trees; and
 - (d) the removal of vegetation or topsoil.'

KELLEHERS

AUSTRALIA

locating 'Aboriginal cultural heritage' during construction or works, a 'clearance' is arranged with the local Aboriginal group. The Act requires no assessment of or consideration of 'Aboriginal intangible heritage' as part of a CHMP unless it is registered.

ALWAYS WAS, ALWAYS WILL BE

As the Wurundjeri language clearly shows, Aboriginal cultural heritage is mighty and deeply important. It is far more than a checklist of sub-terranean bones and stones. Victoria needs better methods for the preservation of language, stories, songs and dance. These need deeper respect paid to them by the development, planning and building industries as well as Councils and other public authorities. A first step is that non-Indigenous people listen and learn the language. That will not hinder development. It will enhance and complement it.

Wurundjeri Intangible Cultural Heritage is wistful, beautiful and as invisible as the breathe of morn.

ALWAYS WAS, ALWAYS WILL BE

INTHOUSE ONLY

Copyright © Kellehers Australia Pty Ltd 2020

This fact sheet is intended only to provide a summary and general overview on matters of interest. It does not constitute legal advice. You should always seek legal and other professional advice which takes account of your individual circumstances.

KELLEHERS AUSTRALIA PTY LTD: www.kellehers.com.au / e: kellelegal@kellehers.com.au

497 Swan Street, Burnley, 3121, Victoria, Australia